

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #3	CCRB Case #: 201900822	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/23/2019 9:00 PM	Location of Incident: 101st Precinct stationhouse	Precinct: 101	18 Mo. SOL 7/23/2020	EO SOL 3/9/2021	
Date/Time CV Reported Wed, 01/23/2019 10:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/28/2019 11:08 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Ventimiglia	12331	945337	101 PCT
2. POM Michael Mccarthy	19917	950855	101 PCT
3. LT Brian Padovani	00000	944872	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Adam Gledhill	30941	954156	101 PCT
2. POM Jay Poggi	22681	953259	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Ventimiglia	Force: Police Officer Nicholas Ventimiglia used physical force against § 87(2)(b)	
B.POM Michael Mccarthy	Abuse: Police Officer Michael Mccarthy strip-searched § 87(2)(b)	
C.LT Brian Padovani	Abuse: Lieutenant Brian Padovani strip-searched § 87(2)(b)	

Case Summary

On January 23, 2019, § 87(2)(b) filed this complaint over the phone with the Internal Affairs Bureau. It was referred to the CCRB, and received on January 28, 2019, under log number 19-3243.

On January 23, 2019, at approximately 9:00 p.m., § 87(2)(b) was arrested for possession of marijuana and brought to the 101st Precinct stationhouse, in Queens, by PO Michael McCarthy, PO Adam Gledhill, and PO Jay Poggi, of the 101st Precinct. At the stationhouse, as § 87(2)(b) was being lodged in a holding cell, PO McCarthy conducted a search of his clothing, and § 87(2)(b) began to physically struggle against the officers, who grabbed him and handcuffed him. During the struggle, PO Nicolas Ventimiglia, of the 101st Precinct stationhouse, entered the cell area to assist the officers, and struck § 87(2)(b) in the face with his hand (**Allegation A – Force: § 87(2)(g)**). After § 87(2)(b) was handcuffed, a strip search was conducted by PO McCarthy, PO Gledhill, PO Ventimiglia, and LT Brian Padovani, of the 101st Precinct, who authorized it. During the strip search, PO McCarthy allegedly placed his hands on § 87(2)(b) buttocks, and separated them (**Allegations B and C – Abuse of Authority: § 87(2)(g)**). A bag containing narcotics was recovered from between § 87(2)(b) buttocks.

There was no video footage of this incident available.

Findings and Recommendations

Allegation (A) Force: Police Officer Nicholas Ventimiglia used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 01) stated that he began to struggle with officers while they attempted to search him inside the holding cell area of the 101st Precinct stationhouse, because they were touching his groin and buttocks and it made him uncomfortable. He was moving his body and pulling away from them, but not striking or attempting to fight them. While other officers held § 87(2)(b) down against a table, PO Ventimiglia came from behind him and punched him in the jaw. § 87(2)(b) was not injured by this, and did not seek or obtain medical treatment.

Although PO McCarthy (Board Review 02), PO Gledhill (Board Review 03), and PO Poggi (Board Review 04) all recalled a struggle to get § 87(2)(b) into handcuffs after he started to resist during a search, PO Ventimiglia (Board Review 05) was the only officer who could recall § 87(2)(b) being struck during the incident. He stated that he had come into the holding cell area after § 87(2)(b) began to struggle with the officers, and found him standing and flailing his arms and kicking his legs while PO McCarthy and PO Gledhill attempted to grab him and place him in handcuffs. PO Ventimiglia went to grab the front of § 87(2)(b) shirt, and while doing so § 87(2)(b) moved his head and it collided with PO Ventimiglia's right hand. PO Ventimiglia's hand striking § 87(2)(b) face was entirely unintentional. After a brief struggle, the officers handcuffed § 87(2)(b). LT Padovani (Board Review 07) was not present for this part of the incident.

Several TRI reports were prepared regarding the incident, § 87(2)(g) (Board Review 06). They stated that PO Ventimiglia accidentally struck § 87(2)(b) in the face while struggling to handcuff him after he resisted a search in the holding cell area. The Medical Treatment of Prisoner Report (Board Review 14), documents that

§ 87(2)(b) complained of pain to his face. EMS were called to the scene, § 87(2)(b) had no visible injuries, and he refused medical treatment from EMS.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Michael McCarthy strip-searched § 87(2)(b)

Allegation (C) Abuse of Authority: Lieutenant Brian Padovani strip-searched § 87(2)(b)

It is undisputed that § 87(2)(b) was strip searched, that the search was authorized by LT Padovani, and also that § 87(2)(b) had a bag containing forty six rocks of crack cocaine between his buttocks. § 87(2)(b) stated that he was held down by several officers, and then PO McCarthy pulled down his pants, separated his buttocks, and an officer removed the back of narcotics from between them. § 87(4-b), § 87(2)(g)

PO McCarthy stated that he felt what he could only describe as a hard object wedged between § 87(2)(b) buttocks during a routine search over his clothing, and that § 87(2)(b) reacted violently to its discovery. He described that during the strip search he pulled down § 87(2)(b) pants while other officers held him down, but denied separating his buttocks.

LT Padovani stated that PO McCarthy relayed to him that he had felt a hard object between § 87(2)(b) buttocks, and that this, along with records indicating that § 87(2)(b) had one previous narcotics related arrest in New York City, led him to authorize a strip search of § 87(2)(b). When the search was conducted, LT Padovani was present in the room and saw one of the officers present pulled down § 87(2)(b) pants and removed a plastic bag containing forty six rocks of crack cocaine was discovered wedged between § 87(2)(b) buttocks. LT Padovani did not state that any officer separated § 87(2)(b) buttocks.

Of the other officers present, only PO Gledhill acknowledged that he was present for the strip search. His testimony was consistent with PO McCarthy's, in that he saw PO McCarthy pull down § 87(2)(b) pants but could not see an officer separate § 87(2)(b) buttocks because of where he was standing in relation to § 87(2)(b).

The Command Log entry for § 87(2)(b) arrest notes that a strip search was authorized by LT Padovani, and conducted at 9:30 p.m. with positive results (Board Review 15).

Under the provisions of Patrol Guide Procedure 208-05, a strip search may only be conducted with the authorization of a supervisor and when an officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by previous search methods. Under this procedure, it should not be necessary to touch a person's body during a strip search, except for examining someone's hair (Board Review 08).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB case involving § 87(2)(b) (Board Review 09).
- PO Ventimiglia has been the subject of fourteen previous allegations of misconduct across eight other cases during his eleven year tenure with the NYPD, one of which was substantiated. § 87(2)(g) (Board Review 10).
 - In case 201406088, PO Ventimiglia was found to have stopped an individual without proper legal authority. A command discipline B was recommended by the CCRB, and formalized training and command level instructions were implemented by the NYPD.
- LT Padovani has been the subject of six other allegations of misconduct across three cases during his eleven year tenure with the NYPD, none of which were substantiated. He has been the subject of one other strip search allegation, which was closed without an investigation (Board Review 11).
- PO McCarthy has been the subject of twenty-five allegations of misconduct in ten previous cases during his seven year tenure with the NYPD, two of which were substantiated (Board Review 16):
 - In case 201501145, PO McCarthy was found to have threatened someone with the use of force and used discourtesy. Formalized retraining was recommended by the CCRB, and eventually implemented by the NYPD.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b)
- A request for any Notice of Claim related to the incident was sent to the New York City Comptroller's Office on June 27, 2019. No response has been received as of the date of this report (Board Review 13).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date